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**Sent:** 2/23/2021 11:31:52 PM  
**To:** Foss, Alyssa - DATCP [Alyssa.Foss@wisconsin.gov]; martinag [martinag@purdue.edu]; Beaver, Brad [brad.beaver@illinois.gov]; Brian Clark [brian.clark@state.mn.us]; Verhougstraete, Brian (MDARD) [verhougstraeteb@michigan.gov]; burkmanc@michigan.gov; Chris Difonzo [difonzo@msu.edu]; cindy flock [folck.2@osu.edu]; scottde@purdue.edu; deanh [deanh@tc.umn.edu]; Dwayne Sanders [dwayne.sanders@state.mn.us]; Whitford, Fred . [fwhitford@purdue.edu]; glenn nice [gnice@wisc.edu]; Greg Minor [gregory.minor@agri.ohio.gov]; Chahal, Gurinderbir (MDA) [g.chahal@state.mn.us]; Fischer, Heidi (MDA) [heidi.fischer@state.mn.us]; becovitzj [becovitzj@purdue.edu]; john stone [stonejo2@msu.edu]; Leach, Carrie A [leach13@purdue.edu]; Ken Runkle [ken.runkle@illinois.gov]; Kerr, Samantha [Samantha.Kerr@illinois.gov]; Kern, Kevin (MDARD) [kernk@michigan.gov]; Reed, Leo A [reedla@purdue.edu]; Suppressed entry [Ex. 6 (Personal Privacy)] Lori Bowman [Lori.Bowman@Wisconsin.gov]; Maria Restrepo-Turner [mrestrep@illinois.edu]; McCloskey, Mark D - DATCP [mark.mccloskey@wisconsin.gov]; mary ann rose [rose.155@osu.edu]; Mary Ferguson [m-ferg@umn.edu]; Matt Beal [matthew.beal@agri.ohio.gov]; Matt Cochran [mcochran@agri.ohio.gov]; Matt.Jorgenson [Matt.Jorgenson@state.mn.us]; buesinge [buesinge@uiuc.edu]; Monica sipes [monica.sipes@wisconsin.gov]; Natalie Hoidal [hoidal016@umn.edu]; Ajayi, Olafimihan [olafimihan.ajayi@illinois.gov]; rajinder.mann [rajinder.mann@state.mn.us]; Personette, Robby E - DATCP [robbey.personette@wisconsin.gov]; Mackedanz, Roger (MDA) [roger.mackedanz@state.mn.us]; Ryan King [ryan.king@agri.ohio.gov]; Ende, Stephanie (MDA) [Stephanie.Ende@state.mn.us]; Moss, Suzanne [suzanne.moss@illinois.gov]; Tana Haugen-Brown [thbrown@umn.edu]; Travis Cleveland [tclevela@illinois.edu]; burkmanc@michigan.gov; christine.wicks [christine.wicks@state.mn.us]; saxtong [saxtong@purdue.edu]; lisa.berg [lisa.berg@state.mn.us]; Beal, Matthew [beal@agri.ohio.gov]; Anna Tristan [atristan@ingham.org]; aprieto@illinoismigrant.org; Ben OHearn [bohearn@migrantlegalaid.com]; bscritchfield@illinoismigrant.org; Carlos Cisneros-Vilchis [ccisnerosvilchis@legalaidchicago.org]; Criag Anderson (canderso@michfb.com) [canderso@michfb.com]; Dana Cowser [danaC@proteusinc.net]; Deb Martin [dcmartin@wsos.org]; Elearce Sawyers [ESawyers@chpofil.org]; erica sweitzer-beckman [elb@legalaction.org]; Esperanza Velasquez [evelasquez@illinoismigrant.org]; Eva Alvarez [ealvarez@lsscm.org]; Guadalupe Cruz [cruzg@michigan.gov]; Heather Cruz [hcruz@pathstone.org]; heladio.zavala@umos.org; Jeanie Gorr (jeanieM@proteusinc.net) [jeanieM@proteusinc.net]; Jesus Centro [centeroj@michigan.gov]; Jesusa Rivera [jesusar@proteusinc.net]; Kara Moberg [kmoberg@lsscm.org]; kgm@legalaction.org; kristin hoffman [kristin.hoffman@ilsi.net]; Laura Waldvogel [laura@famhealth.com]; Lauren Dana [ldana@legalaidchicago.org]; Lisa Palumbo [lpalumbo@legalaidchicago.org]; Lisa Sciolaro [sciolaro.lisa@dol.gov]; lupe.martinez@umos.org; Mariah Hennen [mkh@legalaction.org]; Mariyam Hussain [mhussain@legalaidchicago.org]; Mark Heller [mheller@ablelaw.org]; Mary Phelan [mphelan@illinoismigrant.org]; Melynda Pinckley [melyndap@proteusinc.net]; Miriam Sonderborg [miriamS@proteusinc.net]; Mischa Fleishman [mfleishman@legalaidchicago.org]; Molly Spaak [mspaak@migrantlegalaid.com]; psawyer@illinoismigrant.org; Randall Collins [randallc@proteusinc.net]; Rosa Flores [rosa.flores@illinois.gov]; Rosa Ortega [rosa.ortega@dwd.wisconsin.gov]; Scott Laeser [slaeser@cleanwisconsin.org]; thendricks@mmlap.com; tomr@ruralaction.org; escobara@michigan.gov; gregorio.mendez-ortega [gregorio.mendez-ortega@state.mn.us]; Heidi Linberg [wollaage@msu.edu]; jess@msu.edu; prochaska.1@osu.edu  
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**Subject:** WPS AEZ Status Update = Revised AEZ of 2020 Not in Effect from Court Order - Suspend Enforcement/Outreach of 2020 AEZ until April 19 now  
**Attachments:** President Exec Order Protect Public Health Restore Sci 1-20-21.pdf

Nothing much new to report on the WPS AEZ, from my last update to you on Febr. 1 (see further below). The only NEW thing is that the AEZ stay has been extended again, now to April 19, partly under an EPA Office of General Council Order (of Jan. 21, 2021) to stay all pending litigation as stipulated in the Presidential Executive Order "Protecting Public Health... and Restoring Science..." issued Jan. 20, 2021 (attached). Additionally, the AEZ is undergoing scrutiny under the same Executive Order, whereby all regulations issued between 2017-2021 are being re-examined. Thus, any resolution for the AEZ appears in the distant future.

As such time that EPA announces, there is to be NO enforcement or even outreach on the recently revised 2020 AEZ, and the former AEZ conditions remain in effect.

EPA AEZ Website updated:

<https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-application-exclusion-zone>

As usual, please feel free to contact me if you may have any questions. Thank you.

*Donald*

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For pesticide information visit <http://www.epa.gov/pesticides/> or <http://npic.orst.edu/>

R5 Bed Bug Hotline at 888/644-2200 or [bedbugs@umn.edu](mailto:bedbugs@umn.edu)

To report environmental violations visit <https://www.epa.gov/pesticide-incidents>

Life Lesson: We do not stop playing because we grow old; we grow old because we stop playing.

Have a Bed Bug Free Day!!

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**From:** Schroeder, Carolyn <[Schroeder.Carolyn@epa.gov](mailto:Schroeder.Carolyn@epa.gov)>

**Sent:** Thursday, February 18, 2021 11:32 AM

**To:**

**Subject:** RE: AEZ Status Update for the SLAs - With new extension to April 19

Hi all, I'm following up on Ryne's message from last month, when the WPS AEZ was stayed until Feb 18 (today!). The stay was extended until April 19. The webpage has been updated to reflect that change, so this info is available to the public at: <https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-application-exclusion-zone>.

Carolyn Schroeder  
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**From:** Baumgartner, Donald

**Sent:** Monday, February 1, 2021 2:35 PM

**To:**

**Subject:** AEZ Status Update = Revised AEZ of 2020 Not in Effect from Court Order - Suspend Enforcement/Outreach of 2020 AEZ

Last week the EPA Regions received an update regarding the AEZ effective date and the pending lawsuits. As relayed to you previously (Jan 11; see further below), five State Attorney Generals and several farmworker advocacy organizations filed separate lawsuits against EPA regarding the newly revised AEZ Rule that was originally to be effective Dec. 2, 2020. Both lawsuits have been combined into one now. Further details from EPA OPP (Office of Pesticide Programs) Certification and Worker Protection Branch are in the email below.

Thus, until further notice, the original AEZ that was part of the original revised WPS of 2015 now remains in effect. State inspectors should NOT verify compliance or enforce the 2020 revised AEZ. Please relay this to your State inspectors. Any outreach on the revised AEZ should also be suspended until further notice.

Please contact me or Ryne Yarger of EPA OPP (his contact information is further below) if you have questions. Ryne is the primary EPA OPP contact on the AEZ. Thank you.

EPA AEZ Website (does not contain recent information):

<https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-application-exclusion-zone>

*Donald*

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RS WPS Coordinator, RS C&T Coord., MI Tech Contact, Bed Bug Specialist, Zika/Mosq Control, Urban Pests, Pollinators  
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For pesticide information visit <http://www.epa.gov/pesticides/> or <http://npic.orst.edu/>

RS Bed Bug Hotline at 888/644-2200 or [bedbugs@umn.edu](mailto:bedbugs@umn.edu)

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**From:** Yarger, Ryne <[Yarger.Ryne@epa.gov](mailto:Yarger.Ryne@epa.gov)>

**Sent:** Monday, February 1, 2021 1:15 PM

**To:**

**Subject:** AEZ Status Update for the SLAs

Hi all,

As promised in the Regional/HQ WPS call last week, below is an update that you can share with the states in your region. Please let me know if you have any other questions:

On October 30, 2020, EPA finalized revisions to the Agricultural Worker Protection Standard's (WPS) Application Exclusion Zone Requirements (2020 Rule) (see [85 Fed. Reg. 68,760](#)). The 2020 Rule, originally set to go into effect on December 29, 2020, made modifications to the 2015 EPA Final Rule that revised the WPS (2015 WPS).

In December 2020, a group of five state attorneys general (New York, California, Illinois, Maryland, and Minnesota) and a group of agricultural workers' rights organizations (led by Rural & Migrant Ministry) filed separate petitions in the U.S. District Court for the Southern District of New York and in the U.S. Second Circuit Court of Appeals challenging the 2020 Rule.

At this time, there is no implementation of the 2020 Rule as a preliminary injunction has stayed the effective date of the 2020 Rule and enjoined EPA from implementing the 2020 revisions. This preliminary injunction is in effect until February 18, 2021, but could be extended as the litigation is ongoing. Until further notice from OPP or OGC, you should assume that the 2015 WPS remains in effect with no changes to the AEZ provisions.

Thanks,  
Ryne Yarger  
Certification and Worker Protection Branch  
Pesticide Re-evaluation Division  
Office of Pesticide Programs  
Office of Chemical Safety and Pollution Prevention  
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**From:** Baumgartner, Donald <[baumgartner.donald@epa.gov](mailto:baumgartner.donald@epa.gov)>  
**Sent:** Monday, January 11, 2021 6:28 PM  
**To:**  
**Subject:** Update on Two Lawsuits (Ag and Farmworker Advocacy) against EPA for AEZ

Not much new to report at this time regarding the State AG Lawsuit against the EPA for the AEZ. We have not been told anything from EPA OPP, other than they are in consultation with attorneys and EPA management. Please be reminded that I sent around the initial information last Dec. 18 (see below).

Besides the State Lawsuit, several farmworker advocacy organizations have also filed Injunctive Relief against EPA over the revised AEZ. This latter one resulted in a 14 day Restraining Order that moved the AEZ effective date from Dec. 29, 2020 to Jan. 12, 2021. More information regarding this latter court action are found in the links below.

Farmworker Justice News (2021), Migrant Clinicians Network (2021), and EarthJustice (2020):

<https://www.farmworkerjustice.org/news-article/earthjustice-and-farmworker-justice-file-complaint-against-epas-rollback-of-application-exclusion-zone-aez/>

<https://earthjustice.org/news/press/2020/groups-challenge-epas-move-to-gut-pesticide-spraying-safeguards>

<https://www.migrantclinician.org/blog/2021/jan/mcn-joins-lawsuit-stop-trump-administration%E2%80%99s-rollback-aez-critical-pesticide-rule.htm>

Farmworker Organizations Show Cause for Relief:

[https://earthjustice.org/sites/default/files/files/20cv10645\\_order\\_12.18.2020.pdf](https://earthjustice.org/sites/default/files/files/20cv10645_order_12.18.2020.pdf)

Farmworker Organizations Case for Injunctive Relief:

[https://earthjustice.org/sites/default/files/files/complaint\\_aez\\_12.16.20\\_final.pdf](https://earthjustice.org/sites/default/files/files/complaint_aez_12.16.20_final.pdf)

[https://earthjustice.org/sites/default/files/files/14.1 mem. in support of proposed order.pdf](https://earthjustice.org/sites/default/files/files/14.1_mem_in_support_of_proposed_order.pdf)

[https://www.marylandattorneygeneral.gov/news%20documents/121720\\_complaint.pdf](https://www.marylandattorneygeneral.gov/news%20documents/121720_complaint.pdf)

*Donald*

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**From:** Baumgartner, Donald <[baumgartner.donald@epa.gov](mailto:baumgartner.donald@epa.gov)>  
**Sent:** Friday, December 18, 2020 7:33 PM  
**To:**  
**Subject:** State AGs [CA,NY,MD,IL,MN] File Lawsuit against EPA for AEZ

Five State Attorney Generals (from CA,NY,MD,IL,MN) have filed a combined lawsuit December 16, 2020 against the EPA for the revised WPS AEZ.

"This lawsuit challenges a U.S. Environmental Protection Agency regulation that needlessly increases the risk of exposure to harmful pesticides by permitting pesticide handlers to continue pesticide applications despite the presence of farmworkers or other persons within the area immediately surrounding the application equipment.... But in October 2020, EPA issued a rule that significantly curtails the protections of the Application Exclusion Zone, threatening the health and safety of farmworkers, their families, and others. ... Plaintiffs the State of New York, State of California, State of Illinois, State of Maryland, and State of Minnesota therefore bring this action to vacate the Final Rule..."

[https://www.marylandattorneygeneral.gov/news%20documents/121720\\_complaint.pdf](https://www.marylandattorneygeneral.gov/news%20documents/121720_complaint.pdf)

Thanks to Bethany Plewe of R10 for sharing this with us.

*Donald*

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**From:** Seneca, Roy <[Seneca.Roy@epa.gov](mailto:Seneca.Roy@epa.gov)>  
**Sent:** Friday, December 18, 2020 2:09 PM  
**To:**  
**Subject:** Greenwire (12-18) AGs say EPA rule boosts toxic exposure risk for farmers (Maryland)

## AGs say EPA rule boosts toxic exposure risk for farmers

By [Marc Heller](#), E&E News reporter

Published: Friday, December 18, 2020

Attorneys general in California, New York and three other agricultural states are mounting a legal challenge to EPA's latest effort to ease worker protection standards for pesticides.

In a **lawsuit** filed in the U.S. District Court for the Southern District of New York, the state attorneys said regulations released by EPA in October would put workers, farmers and others at increased risk of exposure to dangerous weed killers and insecticides.

At issue are the "exclusion zones" EPA established at farms, aimed at preventing exposure to unprotected people. The zones, extending 100 feet around pesticide application sites, were added to the agency's worker protection standard in 2015, during the Obama administration.

EPA's final regulations remove provisions that apply to areas off the farm in question — areas that are too hard for states to enforce, the agency said.

Farmers and their family members are also exempt under the EPA rules. The agency has said the updated regulations will be more workable, while protecting people from potential exposure (*Greenwire*, Oct. 29).

In their complaint, the state attorneys called the regulation "unjustified and unwarranted" and said the agency's own cost-benefit analysis doesn't support the change.

The regulation, the states said, "needlessly increases the risk of exposure to harmful pesticides by permitting pesticide handlers to continue pesticide applications despite the presence of farmworkers or other persons within the area immediately surrounding the application equipment."

Other states joining the case are Illinois, Maryland and Minnesota.

In a statement, Maryland Attorney General Brian Frosh (D) suggested EPA is shirking its responsibility.

"It is EPA's job to protect farmworkers, their families and others who are exposed to pesticides. These regulations prioritize killing bugs over protecting people," Frosh said.

In New York, about 7.2 million acres — a quarter of the state — is covered by farms. Nearly 3 million gallons of liquid pesticides and 24.3 million pounds of solid pesticide were applied there in 2013, according to the complaint, citing the state Department of Environmental Conservation.

In California, the nation's leading farm state, 204.7 million pounds of pesticide were applied on 104.3 million acres cumulatively, the complaint said. That state changed its own worker protection standard in 2017 to align with EPA's 2015 regulations, meaning the new federal rules will create confusion, according to the lawsuit.

State agriculture departments have applauded EPA's changes, however, saying they'll clarify the rules and free state regulators of the difficult task of enforcing rules on off-farm property.

Other elements of the regulation would allow suspended pesticide applications to resume when unprotected individuals leave the exclusion zone.

The National Association of State Departments of Agriculture has supported EPA's moves. The American Public Health Association has opposed them.

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